

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL)
DEVELOPMENT ISSUED TO THE)
WASHINGTON STATE DEPARTMENT)
OF TRANSPORTATION)

VESTEL O. MANASCO,)

Appellant,)

v.)

CITY OF KELSO; WASHINGTON)
STATE DEPARTMENT OF)
TRANSPORTATION,)

Respondents,)

WASHINGTON STATE DEPARTMENT)
OF ECOLOGY,)

Amicus Curiae.)

SHB No. 78-31

ORDER DISMISSING
REQUEST FOR REVIEW

This matter came before the Shorelines Hearings Board on motion of the respondent Department of Transportation to dismiss a request for review of appellant Vestel Manasco on the grounds that the Board has no jurisdiction over the matter. Respondent City of Kelso joined in the motion. The matter was presented to the Board through written documents

1 and written arguments submitted by the parties. Appellant appeared pro
2 se; respondent Department of Transportation appeared through Charles F.
3 Secrest, Assistant Attorney General; respondent City of Kelso appeared
4 through its attorney, C. LeRoy Borders. The Department of Ecology and
5 Attorney General provided a statement of their position through their
6 attorney, Robert V. Jensen.

7 The Shorelines Hearings Board has jurisdiction to hear appeals
8 arising under RCW 90.58.180, WAC 173-14-170, and WAC 173-14-064.¹ This
9 is not an appeal pursuant to an enforcement action by local government or
10 the Department of Ecology as provided in WAC 173-14-180 and 173-14-190.
11 Persons aggrieved by the granting, denying or rescinding of a permit may
12 appeal to the Board. The appeal must be certified by the Attorney General
13 or the Department of Ecology within 30 days after their receipt of the
14 request for review. The Board cannot review any matter which has not
15 been certified. Under the appeal route available to the appellant,
16 RCW 90.58.180(1), his appeal must be certified by the Attorney General
17 or the Department of Ecology. The record shows that the Attorney General
18 and Department of Ecology did not certify the appeal within the time
19 allowed, and in accordance with RCW 90.58.180(1) "the hearing board shall
20 remove the request from its review schedule." Although the statute
21 clearly prohibits the review of a matter which is not certified, appellant
22 is not precluded from obtaining review in superior court under any right
23 otherwise available. RCW 90.58.180(1). We further note that pursuant to
24 RCW 90.58.140(5)(c), the court could remand such appeal to this Board.

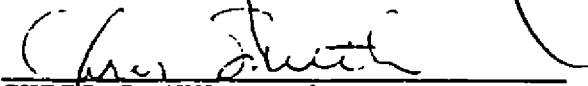
25
26 1. WAC 173-14-170 and 064 provide that appeals are governed
27 by RCW 90.58.180.

1 Accordingly, the motion to dismiss is granted and the request for
2 review is dismissed.

3 DATED this 17th day of November, 1978.

4 SHORELINES HEARINGS BOARD

5 
6 DAVE J. MOONEY, Chairman

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8 CHRIS SMITH, Member

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10 DAVID AKANA, Member

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12 ROBERT E. BEATY, Member

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14 WILLIAM A. JOHNSON, Member